



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2015–0148; 4500030113]

RIN 1018–BA86

Endangered and Threatened Wildlife and Plants; 6-Month Extension of Final Determination for the Proposed Listing of the Headwater Chub and Distinct Population Segment of the Roundtail Chub as Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of the comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 6-month extension of the determination of whether the headwater chub (*Gila nigra*) and a distinct population segment of the roundtail chub (*Gila robusta*) are threatened species, and we announce the reopening of the comment period on the proposed rules to add these species to the List of Endangered and Threatened Wildlife. We are taking this action based on

our finding that there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to our proposed regulations to add these species to the List of Endangered and Threatened Wildlife, making it necessary to solicit additional information by reopening the comment period for 30 days.

DATES: The comment period end date is [INSERT DATE 30 DAYS AFTER DATE OF FEDERAL REGISTER PUBLICATION]. We request that comments be submitted by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal:

<http://www.regulations.gov>. In the Search box, enter the appropriate Docket No.: FWS–R2–ES–2015–0148 for the proposed threatened status for headwater chub and the roundtail chub distinct population segment. You may submit a comment by clicking on “Comment Now!”

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2015–0148; U.S. Fish & Wildlife Headquarters, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments **only** by one of the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Public Comments** section below for more information). Comments previously submitted need not be resubmitted

as they are already incorporated into the public record and will be fully considered in the final determinations.

FOR FURTHER INFORMATION CONTACT: Steve Spangle, Field Supervisor, U.S. Fish and Wildlife Service, Arizona Ecological Services Office; telephone 602–242–0210; facsimile 602–242–2513. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at (800–877–8339).

SUPPLEMENTARY INFORMATION:

Background

On October 7, 2015 (80 FR 60754), we published a proposed rule to determine that the headwater chub and the lower Colorado River basin distinct population segment (DPS) of the roundtail chub are threatened species under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 et seq.). For a description of previous Federal actions concerning these species, please refer to the proposed listing rule (October 7, 2015; 80 FR 60754). We solicited and received independent scientific review of the information contained in the proposed rule from peer reviewers with expertise in these two chub species, in accordance with our July 1, 1994, peer review policy (59 FR 34270).

Section 4(b)(6) of the Act and its implementing regulations in title 50 of the Code of Federal Regulations at 50 CFR 424.17(a) require that we issue one of four documents within 1 year of a proposed determination: (1) A final rule to implement such determination or revision, (2) a finding that such revision should not be made, (3) a withdrawal of the proposed rule upon a finding that available evidence does not justify

the proposed action, or (4) a document extending such 1-year period by an additional period of not more than 6 months because there is substantial disagreement among scientists knowledgeable about the species regarding the sufficiency or accuracy of the available data relevant to the proposed determination or revision.

During the public comment period, we received multiple comments on the proposed listing determinations from scientists with knowledge of the species regarding the sufficiency or accuracy of the available data used to support these proposed regulations, as well as the methodology used to develop the proposed rule. We also received comments through the peer review process on the proposed rule from scientists with expertise on the biology of chubs or similar species. In particular, specific comments questioned the taxonomic distinctness of the two species. This evidence of substantial disagreement regarding the sufficiency or accuracy of the available data warrants a 6-month extension before the final determination.

Currently, the American Fisheries Society (Page et al. 2013, p. 71), which is recognized as the authority in establishing taxonomic status of fish, considers headwater chub and roundtail chub to be separate species. Consequently, in the proposed rule (October 7, 2015; 80 FR 60754) we evaluated headwater and roundtail chubs as separate species. However, commenters raised questions regarding the taxonomic distinctness of the headwater and roundtail chubs, as related to the Gila chub (*Gila intermedia*). The Gila chub is listed as an endangered species (November 2, 2005; 70 FR 66664). Some scientists knowledgeable about the species contend that the three entities are not separate species, but instead constitute a “species complex.”

Since our analysis, new information is available regarding taxonomy and genetic analysis published by Dowling et al. 2015 (entire). In addition, the Arizona Game and Fish Department requested that the American Fisheries Society convene a panel or workshop to address the five following objectives:

- (1) Determine if the taxonomic classification of the three species remains valid and scientifically defensible given both historical and recent studies and information;
- (2) If the taxonomic classification is found invalid, determine a defensible taxonomic classification of the chub complex using the best available science;
- (3) Provide a new set of guidelines or classification key to follow;
- (4) Publish the findings and recommendations of this panel; and
- (5) Provide the results to the Southwest Region of the U.S. Fish and Wildlife Service.

The American Fisheries Society agreed to commence a Names of Fishes panel to evaluate the most recent literature associated with roundtail chub, headwater chub, and Gila chub taxonomy. The panel met in April 2016, but has not produced a decision report. However, our understanding is that a report is forthcoming in the immediate future.

As a result of the comments we received during the comment period, we find that there is substantial disagreement among scientists knowledgeable about the species regarding the sufficiency or accuracy of the available data that are relevant to our determination of the proposed regulations. Moreover, the American Fisheries Society's decision on the taxonomy of the roundtail chub, headwater chub, and Gila chub is expected in the immediate future. In consideration of these scientific disagreements, and

with expectation that additional information will resolve the disagreement and that a potential solution is forthcoming, we have determined that a 6-month extension of the final determinations for these rulemakings is warranted. Thus, we hereby extend the final determinations for 6 months in order to solicit information that will help to clarify these issues and to fully analyze this information.

As noted in the proposed listing rule (October 7, 2015; 80 FR 60754), section 4(b)(6)(A) of the Act requires that we make final listing determinations within 1 year of the proposed rule, which would be October 7, 2016. However, as previously stated, section 4(b)(6)(B) of the Act authorizes a 6-month extension, which would extend our final decisions to April 7, 2017.

Public Comments

We will accept written comments and information during this reopened comment period on our proposed regulations for the headwater chub and the lower Colorado River basin DPS of the roundtail chub that was published in the **Federal Register** on October 7, 2015 (80 FR 60754). We will consider any information and recommendations received during this open comment period. We intend that any final action resulting from these proposals be as accurate as possible and be based on the best available scientific and commercial data.

In consideration of the scientific and other comments received regarding the data used to support these proposed regulations, we are particularly interested in new information and data regarding genetics and morphology pertaining to roundtail chub, headwater chub, and Gila chub that would aid in the ongoing taxonomic classification of

these species. New information includes data that was not included in the proposed rule and associated documents for the headwater and roundtail chubs because it was not available to the Service or was not completed at the time.

If you previously submitted comments or information on the proposed rule, please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in the preparation of our final determinations. Our final determinations will take into consideration all written comments and any additional information we received.

You may submit your comments and materials concerning the October 15, 2015, proposed rule (80 FR 60754) by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Arizona Ecological Service Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule on the

Internet at <http://www.regulations.gov> at Docket No. FWS–R2–ES–2015–0148. Copies of the proposed rule are also available at <http://www.fws.gov/southwest/es/arizona>.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 4, 2016

Matthew Huggler
Acting Director, U.S. Fish and Wildlife Service

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